CHAPTER V.

CONFERMENT OF OWNERSHIP ON TENANTS.

The two basic objectives we had in view while formulating our proposals regarding existing and future leases was the abolition of the land-lord-tenant system and the consequent encouragement of personal cultivation. We have accordingly recommended prohibition of leases except in special cases. Resumption of land by the owner is to be permitted only for personal cultivation, subject to certain conditions. In most cases, the landlord cannot resume the entire holding even for personal cultivation. Hence, normally, every holding cultivated by a tenant would comprise a resumable part and a non-resumable part. The resumable part will also be selected and demarcated early. The question would then arise whether the tenant should not be given further rights over the non-resumable extent. We are of the view that the tenant-landlord relationship should come to an end in respect of the non-resumable area, as soon as it is demarcated. This can be achieved in any one of the following ways:-

(1) Government may collect rent from the tenant and pay the same to the landlord;

(2) Government may acquire the land on payment of compensation to the owner, and continue to recover fair rent from the tenant; or

(3) the tenant may become the owner of the land.

The first alternative is not acceptable as in any case the landlord will continue to have a notional ownershin and this would run counter to our proposals for redistribution of land.

2. In Uttar Pradesh, all tenants and sub-tenants have been brought into direct relation with the State. No compensation was payable by tenants, the State undertaking responsibility for paying compensation to landlords out of rents recovered from the tenants. The tenants have the option to acquire full ownershin (Bhumidari rights) on payment of a sum equal to 10 times the rent.

The scheme of Government acquiring the land and leasing it out to the tenant on fair rent is recommended by some on the ground that the achievement of the ideal of co-operative village management accepted in both the First and Second Plans would be facilitated if new ownership rights in land are not conferred. For this ideal to be achieved it would be necessary for all holders of land in a village to agree to give up their individual rights of ownership in favour of common ownership by the village community. But the proportion of land held by tenants is less than 25% and the non-resumable area may be only about half of this. The denial of ownership rights in respect of this small percentage of lands is not likely in any way to affect the establishment of co-operative village management. Moreover, the conferment of rights of ownership on these tenants, many of whom are landless, would lessen inequalities in economic and social status and will indirectly assist the introduction of co-operative village management. Co-operation thrives best in homogeneous groups in which there are no large inequalities. We are not therefore in favour of the non-resumable lands being acquired by Government and leased out to the present tenants at fair rent, without conferring ownership.

3. The only alternative left is therefore the conferment of ownership rights on the tenants. The ownership may be transferred compulsorily by law to the tenant or the tenant may have only an optional right to purchase, if he so desires. Ownership was conferred on all tenants in Delhi subject to their paying compensation ranging from 4 to 40 times the land revenue. The

Bombay Tenancy and Agricultural Lands Act as amended in 1955 contains a provision whereby all tenants become owners of the lands held by them, subject to certain exceptions. The price payable, though to be fixed by Government agency is to be paid direct by the tenant to the landlord in instalments. A similar provision which could be brought into force only in specified areas notified by Government is found in the Hyderabad Tenancy Act also.

The tenants have an optional right of purchase in the following States:

Madhya Pradesh (excluding Berar):

(1) Former Madhya Pradesh area: The compensation is 7 times the rent for acquiring Bhumidari rights and 10 times for Bhumiswami rights.

(2) Madhya Bharat area: Sub-tenants and their tenants in Zamindari and Jagirdari areas have the right. The compensation is 2 to 8 times the net income of the landlord.

(3) Vindhya Pradesh area: A tenant may purchase up to 10 acres (upper limit on the total land to be held not to exceed 30 acres) provided the owner is left with 30 acres. The price is 15 times the rent.

Punjab: Tenants of non-resumable area in continuous possession for six years have the right. The price is three-fourths of the market value except in PEPSU area.

In PEPSU area tenants of non-resumable area may purchase ownership. Compensation is 90 times the land revenue; but not exceeding Rs.200 per acre.

Andhra Pradesh: Telangana: The right is available to protected tenants. They can purchase up to one family holding provided the owner is left with two family holdings. Compensation varies between 6 to 15 times the rent according to the class of soil.

Rajasthan: The right is available to sub-tenants in an area not exceeding a minimum holding. The price is to be between 25 to 50 per cent of the market value depending upon the length of tenant's possession, plus cost of improvement except in Ajmer. The right is available in the Khalsa area of Ajmer to tenants holding lands under permanent rights. The price is 12 times the hereditary rate of rent. In intermediary areas of Ajmer sub-tenants and tenants of home-farm lands in possession for three or more years become owners without payment of compensation.

Himachal Pradesh: Tenants of non-resumable area have the right. Price is 48 times the land revenue for non-occupancy tenants.

Provision has been made for payment in instalments which vary from State to State.

4. According to the Review of the First Five Year Plan, the optional right of purchase is seldom exercised in practice. The amount of land so purchased and the number of tenants who have been able to acquire ownership, both indicate that the optional right of purchase has not produced any significant results. The Second Plan mentions that one of the main reasons for the tenants not exercising the optional right to purchase is that they have no surplus from which to pay the landlord. It therefore recommends that it is desirable to

go beyond giving an optional right of purchase and instead to take steps to bring all tenants of non-resumable areas into direct relationship with the State. The following three possible courses have been examined in the Plan:

(1) the State recovers rent and finances payment of compensation to owners;

(2) besides land revenue the State recovers instalments of compensation from the tenant; and

(3) the State recovers land revenue and tenants pay instalments of compensation direct to owners.

The first alternative is not accepted as this would necessitate continuance of a fixed level of rent till the compensation is fully paid. Further, if there is no separate accounting of the amount recovered towards land revenue and that recovered towards instalments of compensation, future reduction of the rent to the level of land revenue would present practical difficulties. The third alternative has been adopted in the Bombay Act, but this leads to a degree of uncertainty as the tenant may default in the payment of instalments and other complications may arise. Both landlords and tenants have suggested to us that this method would not work well in practice. All the landlords preferred to draw the compensation in a lump sum as drawing in instalments would not enable them to invest it otherwise so as to secure an alternative income. Many of them were prepared to accept deferred payment in a lump sum provided interest was paid annually during the intervening period. This would be possible only if the second alternative of Government taking over the responsibility to pay compensation and recovering the same from tenants in instalments is adopted. We, therefore, recommend that the ownership of all non-resumable areas may vest in Government from a notified date subject to Government paying compensation to the owner. Tenants will acquire ownership rights on payment of the compensation paid by Government.

5. In States where the tenant has a right of purchase, the compensation is either a fraction of the market value or a multiple of the land revenue or a multiple of rent. The market value of land does not always depend on the income the owner was getting from it. The compensation in this case should be based on the income the owner would get. Multiple of land revenue is not also satisfactory as the basis for computing compensation, since land revenue bears no relation either to the gross or net produce. The rent which the landlord would get for the land appears to us to be the most satisfactory basis for computing the compensation.

6. We have given anxious thought to the question of the multiple to be adopted for computing compensation on the basis of net income. Three factors have weighed with us in this behalf, namely (1) the multiple of net income adopted for paying compensation to intermediaries, (2) the requirement that the total burden of payment falling on the tenant should not be excessive and (3) the need to provide that the tenant attains full ownership within a reasonable period, after paying all the instalments of the compensation. Factors (2) and (3) are interrelated. The Second Plan has stressed the need to ensure that aggregate of the annual payment in the form of land revenue and the instalments of compensation do not exceed the level of rent recommended in the Plan. It would not also be feasible to spread the recovery of the compensation over too long a period, as the tenant cannot get full ownership until the compensation is recovered in full. Any period longer than 20 years would, therefore, be out of question. The multiple adopted for intermediaries varies from 3 times to 28 times the net annual assets

of the landlord in various States. The multiple adopted for the lower income intermediaries is generally 15. With this multiple of 15, it would take between 22 and 23 years for the compensation and interest to be fully recovered in instalments equal to the annual net income to the owner. A higher multiple cannot therefore be thought of.

In view of these considerations we propose that the compensation to be paid to the owner should be equal to 15 times the fair rent less the land revenue; this would be the net income of the owner if the lease had continued. The tenant may have the option to pay it either in one lump sum or in equated instalments over a period of 20 years with interest at 4½%. The annual instalment together with the land revenue will be only 8¼% more than the fair rent. The excess of the instalment over the fair rent is slight.

7. It would not be correct to treat permanent tenants on a par with other tenants. Permanent tenants under any law in force on 1-11-1956 in each area may pay 8 (eight) times the rent to get full ownership.

8. Coming next to the question of payment of compensation by Government to the owner, we suggest that Government may pay it in a lump sum immediately in the case of persons from whom less than a basic holding has been taken over. Such cases are, however, likely to be few, as holdings less than a family holding leased out by persons with income below Rs.1200/- will not come within the purview of the scheme for transfer of ownership to tenants. Where the extent taken is not less than a basic holding, compensation may be payable in instalments not exceeding 20 with interest if the owner agrees to receive in instalments; otherwise compensation should be in the shape of negotiable bonds carrying interest and redeemable over a period of 20 years. These bonds will meet the requirements of owners who prefer to get compensation in a lump sum and interest in the meantime. The annual recoveries from the tenant may be utilised to redeem 5% of the bonds every year.

9. We would like to explain why we have proposed interest at 4½%. The Bombay Act provides this rate. The loan which is being floated by the Government of Mysore will carry interest at 4¼%. If the fact that bonds with a face value of Rs.100/- are issued on payment of Rs.98.75 only is also considered the net yield will be 4.38%. These loans are repayable within 12 years whereas the bonds to be issued to landowners will be in force up to 20 years. Recently the Central Government allowed the 15-year loan interest at 1/4% more than for 12-year loan. Hence we consider that 4½% would be quite reasonable for these 20-year bonds when compared with the effective rate of 4.38% paid for 12-year bonds.

10. The non-resumable extent should vest in Government free from encumbrances. The law should therefore provide for the compensation being applied to the satisfaction of debts. The provisions of section 32Q of the Bombay Act are suitable for this purpose and may be adopted. Sub-section (3) should, however, be modified so as to enable a reference similar to a reference under section 30 of the Land Acquisition Act being made to the principal civil court of original jurisdiction whenever there is no agreement regarding any encumbrance between the owner and the persons claiming a charge on the compensation. The Bombay Act provides for such a reference only when any question of law is involved. We are, however, of the view that as disputes regarding an encumbrance are ordinarily heard and disposed of only by civil courts, all such disputes whether involving question of law or of fact, arising in connection with the claims to compensation for

non-resumable area should be disposed of by civil courts only.

11. In some areas the cultivating tenants do not hold directly under the registered occupant, there being one or more intermediary tenants such as Mulgenidars and permanent tenants. The question arises how the compensation should be distributed in such cases. The most equitable arrangement would be for the compensation to be distributed between the owner and the intermediary tenants in the same proportion in which the rent for the land paid by the cultivating tenant is being appropriated by them. Thus when any intermediary tenant is paying fixed rent in cash to the next higher holder 15 times that amount should be payable to that holder by deduction from the share of the intermediary concerned. Where the rent is in kind the compensation has to be apportioned in the same proportion in which the produce rent is shared.

12. We have considered whether any separate provision is necessary to deal with cases in which tenants may not choose to accept ownership of the non-resumable extent on the terms suggested by us. This possibility is extremely remote as the annual payment to be made by the tenant is not appreciably higher than the fair rent he has to pay in any case. In view of the sentimental value attached to land ownership, we cannot conceive of any normal case in which ownership will be declined by a tenant. To cover such exceptional cases, a provision should be made for treating such tenants, on application by them, as mere tenants under Government.

13. In view of the fact that the tenant gets ownership of non-resumable extent at a concessional price, the question arises whether any restrictions should be placed on his rights in respect of such land. It is obvious that such land should not be leased out again. Sale and other transfers should not also be allowed for 20 years, but partition among members of the tenant's joint family may be permitted. If the tenant wants to give up agriculture or the land within this period of 20 years, he may relinquish it to Government. The Land Tribunal will allot it in the same order of priority as surplus land. The tenant will in such cases, however, lose the difference between the instalments paid by him and the fair rent.

14. There may be some cases in which tenants have paid advances to landlords for purchase of land when there were no restrictions on such purchase. We would recommend that such advances should be dealt with in the same manner as encumbrances on the land while apportioning the compensation.